IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6781 of 2007()

CMP.2729/2007 of J.M.F.C., MANNARKAD
CRIME NO.116/07 OF AGALI POLICE STATION

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PETITIONER/ACCUSED

GURUSWAMI, S/O.KRISHNASWAMI REDDIAR,
POOVATH COLONY, AGALI, MANNARKAD, PALGHAT.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT

THE STATION HOUSE OFFICER,
AGALI POLICE STATION, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6781 OF 2007

Dated this the 7th day of November, 2007

ORDER

Application for regular bail. The petitioner faces allegations under Sec.302 of the IPC. He is alleged to have caused the death of his father by inflicting multiple injuries on him with an iron rod. The alleged incident took place on 21/9/07. The petitioner was arrested on 22/9/07. He continues in custody from that date.

2. The crux of the allegations against the petitioner is that he had assaulted his father who had come to the family house in which the petitioner was residing by inflicting multiple injuries on him with a dangerous weapon. The deceased father had allegedly caused the death of the mother of the petitioner. The deceased had gone to jail in connection with that crime.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even accepting all the allegations, the alleged incident occurred when the father came to the house of the petitioner and wanted him to vacate. This must be reckoned as grave and sudden provocation to bring down the alleged offence, if any, from one of murder to culpable homicide not amounting to murder. In this view of the matter, the petitioner may be granted regular bail now, it is submitted.

4. The learned Public Prosecutor opposes the application. The fact that the father had criminal antecedents is not disputed. But considering the nature and circumstances of this case where the deceased is found to have as many as 36 injuries on his person, the theory that the alleged act must have been on account of grave and sudden provocation or in self-defence cannot, at the moment, be accepted, submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am persuaded to agree that the Investigator must be given reasonable further time to complete the investigation. The petitioner is not, in these circumstances, entitled for bail now.

6. In the result, this bail application is dismissed. But, I

may hasten to observe that the petitioner shall be at liberty to move this Court again for bail at a later stage of the investigation – not, at any rate, prior to 21/11/2007. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge